

SENATE RULES COMMITTEE

SB 2187

Office of Senate Floor Analyses

1020 N Street, Suite 524

(916) 445-6614

Fax: (916) 327-4478

THIRD READING

Bill No: SB 2187

Author: Schiff (D)

Amended: 4/28/98

Vote: 21

SENATE PUBLIC SAFETY COMMITTEE : 7-0, 4/21/98AYES: Vasconcellos, Rainey, Burton, Kopp, McPherson,
Polanco, Schiff

NOT VOTING: Watson

SENATE APPROPRIATIONS COMMITTEE : Senate Rule 28.8

SUBJECT : Youth Authority: proceedings to extend
commitment
beyond age 25SOURCE : Los Angeles District Attorney's Office

DIGEST : This bill recasts, clarifies and revises the
current law concerning the civil commitment of Youth
Authority wards beyond the age of 25.ANALYSIS : Current law generally provides for the
following jurisdiction of the juvenile court:--The court may retain jurisdiction over any person who is
found to be a ward or dependent child of the juvenile
court until the ward or dependent child attains the age
of 21 years.--The court may retain jurisdiction over a delinquent
minor, as specified, by reason of the commission of☐

specified serious and violent offenses until that person

attains the age of 25 years if the person was committed to the Department of the Youth Authority.

Current law further provides that the court shall not discharge any person from its jurisdiction who has been committed to the Department of the Youth Authority so long as the person remains under the jurisdiction of the Department of the Youth Authority, including periods of extended control ordered pursuant to Section 1800 of the Welfare and Institutions Code.

Current law provides that every person convicted of a felony and committed to the Youth Authority shall be discharged when such person reaches his 25th birthday, unless an order for further detention has been made, as specified.

Current law provides that whenever the Youthful Offender Parole Board determines that the discharge of a person from the control of the Youth Authority would be physically dangerous to the public because of the person's mental or physical deficiency, disorder, or abnormality, the board shall request the prosecuting attorney to petition the committing court for an order directing that the person remain subject to the control of the authority beyond that time, as specified.

Current law further provides that, upon a petition being filed, the court must notify the subject of the petition and others, as specified, and "afford the person an opportunity to appear in court with the aid of counsel and of process to compel attendance of witnesses and production of evidence." Current law provides:

If after a full hearing the court is of the opinion that discharge of the person would be physically dangerous to the public because of his or her mental or physical deficiency, disorder, or abnormality, the court shall order the Youth Authority to continue the treatment of the person. If the court is of the opinion that discharge of the person from continued control of the authority would not be physically dangerous to the public, the court shall order the person to be discharged from control of the authority.

Commitment pursuant to this section requires a unanimous verdict and the "full panoply of due process considerations." (People v. Superior Court (Vernal D.) (1983) 142 Cal.App.3d 29)

□

Current law provides procedures for providing persons subject to these provisions with a jury trial to answer the question, "Is the person physically dangerous to the public because of his mental or physical deficiency, disorder, or abnormality," as specified.

Commitments pursuant to these sections are for a duration of up to two years.

This bill would recast, clarify and revise these provisions as follows:

- Require a court to order a hearing be held if it determines that a commitment petition, on its face, supports a finding of probable cause.
- Retain the notification provisions in current law.
- Allow, if the dependent is a minor, a guardian of that minor, to appear at the hearing with the aid of counsel and the right to cross examine experts or witnesses, as specified.
- Require the probable cause hearing to be held within 10 calendar days after the date the order is issued unless the person named in the petition waives this time.
- Require the court, at the probable cause hearing, to receive evidence and "determine whether there is probable cause to believe that discharge of the person would be physically dangerous to the public because of his or her mental or physical deficiency, disorder, or abnormality."
- Require, if the court determines there is not probable cause, to "dismiss the petition and the person shall be discharged from the control of the authority at the time required by (current law)."
- Require, if the court determines there is probable cause, to "order that a trial be conducted to determine whether the person is physically dangerous to the public because of his or her mental or physical deficiency, disorder, or abnormality."
- Provide that, if a trial is ordered, the trial must be by jury unless personally waived by the person, "after he or she has been fully advised of the constitutional rights being waived, and by the prosecuting attorney, in which case trial shall be by the court."

□

- Require the court or the jury to answer the following question: "Is the person physically dangerous to the public because of his mental or physical deficiency, disorder, or abnormality?"
- Provide that "the person shall be entitled to all rights guaranteed under the federal and state constitutions in criminal proceedings."
- Require a unanimous jury verdict.

--Require proof beyond a reasonable doubt.

Background: Extension of Youth Authority Jurisdiction
under Welfare and Institutions Code Section 1800

Current law contains a mechanism for extending confinement for two years beyond the time a ward would otherwise have to be released. The basis for the extension is the determination that a ward would be physically dangerous to the public because of a mental or physical deficiency, disorder, or abnormality.

Wards are entitled to two separate hearings on whether they are physically dangerous. Within 10 days from a judicial finding of dangerousness, wards may file a written demand for a jury trial in a superior court. The jury is charged to decide whether the person is physically dangerous to the public because of his mental or physical deficiency, disorder, or abnormality. The ward is entitled to all rights guaranteed under the federal and state constitutions in criminal proceedings, and the trial requires a unanimous jury verdict, employing the standard of proof beyond a reasonable doubt. The continued confinement pursuant to this process can occur every two years.

The sponsor of the bill submits that "a disjointed series of amendments and judicial interpretations" has caused these provisions to "evolve in such a way as to require an unparalleled redundancy by which a 'defendant' is now, arguably, entitled to two consecutive trials at which the people must twice establish the same elements beyond a reasonable doubt."

FISCAL EFFECT : Appropriation: No Fiscal Com.: Yes
Local: Yes

SUPPORT : (Verified 5/19/98)

□

Los Angeles District Attorney's Office (source)
Attorney General
California District Attorney's Office
California Peace officers Association
California Police Chiefs Association

ARGUMENTS IN SUPPORT : The author states:

"The maximum age at which a juvenile can be kept in the juvenile justice system is upon reaching the age of 25. Yet, often a juvenile, who has done his or her time and remains a serious threat to society due to a psychological problem, may be released back into the community with no supervision. . . . It is ridiculous to set walking time bombs out into the community, knowing that they could blow up at any time. Apart from the most critical issue, that

of public safety, it is unfair to the person released. Clearly they would be better served by remaining in a secure treatment facility rather than being put into a position to get into more trouble.

"Some of the problems have resulted from individual courts applying different standards of proof in the initial hearing. SB 2187 clarifies the standard to be applied by making it consistent with other similar mental health related proceedings. By clarifying the use of a preponderance standard in the initial hearing, it makes it easier to get these cases to subsequently be heard by a jury."

RJG:sl 5/19/98 Senate Floor Analyses
SUPPORT/OPPOSITION: SEE ABOVE
***** END *****

APPROPRIATIONS COMMITTEE FISCAL SUMMARY

SB 2187 (Schiff)

Hearing Date: 5/18/98
4/28/98

Amended:

Consultant: Lisa Matocq

Policy Vote: Pub Saf 7-0

BILL SUMMARY:

SB 2187 revises the statutes relating to civil commitment of CYA wards over the age of 25.

Fiscal Impact (in thousands)

<u>Major Provisions</u>	<u>1998-99</u>	<u>1999-2000</u>	<u>2000-01</u>	<u>Fund</u>
Civil commitment	Minor, absorbable, if any, increased costs			General

STAFF COMMENTS:

Under current law, the court may retain jurisdiction of a delinquent minor until that person reaches 25 years of age if that person committee a specified violent or serious felony. Every person convicted of felony and committed to the CYA must be discharged on his or her 25th birthday, unless an order for further detention has been made. The court may require CYA to continue treatment of such a person if the court, after a hearing, is of the opinion that release of the person would be dangerous to the public. The person is entitled to a jury trial on the question of whether he or she is dangerous to the public.

This bill, among other things, (1) requires a court to order a probable cause hearing, as specified, (2) requires that the hearing be held within 10 days after the order is issued, (3) requires the court to determine if probable cause exists to believe the person would be dangerous tot he public if released, (4) if the court finds that probable cause does not exist, this bill requires the court to order the release of the person; if the court finds that probable cause does exist, it must order a jury trial, unless waived by the person, and (5) requires the court to answer the question: Is the person physically dangerous to the

□

public because of his mental or physical deficiency, disorder, or abnormality?

This bill makes consistent the standards to be used in these procedures since it currently varies by court. By requiring only a preponderance of evidence in the initial hearing, there may actually be some minor cost savings to the courts since some courts are now requiring proof beyond a reasonable doubt. According to CYA, there are minor, absorbable, if any, increased costs since there are so few of these cases. Judicial Council states that there are potential, minor, absorbable costs for the hearing provisions.